

REMARKS

The Amendment addresses the issues outstanding from the final Office Action dated December 28, 2009. Favorable reconsideration of the present application is respectfully requested.

The specification has been amended to provide a new Title, as required by the Examiner. Claims 6, 7 and 16-19 are currently pending in the application. Applicant has amended Claim 6. Claims 1-5 and 8-15 have previously been canceled. The Amendment is believed to place all of the pending claims in condition for allowance.

Claim 6 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 6 has been amended to more clearly recite the subject matter to which Applicant is entitled to overcome the §112, second paragraph rejection. Therefore, Applicant respectfully requests that the Examiner formally withdraw the rejection.

Claims 6, 7 and 16-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al. as applied to Claims 1, 6 and 7 above, and further in view of U.S. PG Pub No. 2002/0050493 to Ball et al. ("Ball").

Regarding Claim 6, the Examiner has focused on Figure 3 of Ball when considering the "reforming" step of claim 6 (see, Final Office Action, paragraphs 11 and 20). However, the Examiner incorrectly states that Ball teaches that "the application of a shallow flange angle (planar flange), with the introduction of in-can pressure, results in a peeling force (FT), inherently reducing the force required to peel the closure required by a user". Ball is not concerned with reducing the opening forces required for a user to peel off a closure, for which peeling would commence from the radial outer edge of the seal. Rather, Ball is concerned with avoiding interior peeling of the closure due to the bulging that results from in-can pressure, for which peeling would commence from the radial

inner edge of the seal. Ball achieves this object by use of a “shallow frustoconical annular flange 30”, as shown in Figure 4. As made clear in paragraph 83 of Ball, Figure 3 (with its horizontal sealing surface) does not represent the invention of Ball. Rather, Figure 3 is only included to show the poor performance of a horizontal sealing surface at resisting interior peeling due to in-can pressure, relative to Ball’s invention, which is shown in Figure 4 with its inclined sealing surface.

Additionally, paragraph 20 of the Final Office Action incorrectly states that Ball “discloses the desirability of a shallow angle” (referring to the horizontal sealing surface shown in Figure 3 of Ball). Following on from the arguments above, there is no teaching or statement in either Ball or Ramsey that the horizontal flange of Figure 3 is desirable. In fact, Ramsey teaches of the desirability of the “angled flanges of the lid and body” to reduce the peel force on the peelable seal (see, Ramsey, Column 3, lines 31-36; Column 4, lines 25-29; Column 5, lines 1-11; and Column 6, lines 1-10). Likewise, Ball teaches maintaining the slope of the “shallow frustoconical annular flange 30”. This is unsurprising given that the invention of Ball focuses on applications for carbonated beverages (see, Ball, paragraph 2), in which the in-can pressure acting on the peelable “closure member 28” results from the product itself and would be continuously maintained up until removal of the closure member. If the flange of Ramsey were to be reformed to a shallower angle prior to opening, it would result in a significant peel force component acting on the radial inner edge of the seal. This would be catastrophic and would result in precisely the consequence that both Ramsey and Ball are seeking to avoid, i.e., peeling of the peelable seal. Therefore, modifying Ramsey as asserted by the Examiner would render Ramsey inoperable for its intended purpose.

Accordingly, one of skill in the art would not be motivated to modify Ramsey to reform the sealing surface to a shallower angle. In the event that one of skill in the art did consider Ramsey and Ball, not only would he/she not find any teaching to reduce the sealing surface angle, in fact, he/she would find the two teach away from any such modification. This is unsurprising because reducing the sealing surface angle for Ball's carbonated beverage container would defeat the object of both Ball and Ramsey (i.e., to avoid interior peeling of the closure member due to the bulging that results from in-can pressure). Consequently, Claim 6 and dependent Claim 7 patentably distinguish over Ramsey and Ball and the Examiner is respectfully requested to formally withdraw the rejection.

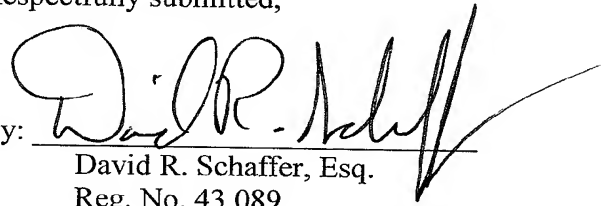
Regarding Claim 16, Claim 16 uses similar terminology to Claim 6, by reciting: "reducing the seal surface angle after the processing step". Contrary to the Examiner's assertion, Ramsey does not teach or suggest "reducing the seal surface angle after the processing step". Therefore, the same arguments used in support of the non-obviousness of Claim 6 also apply to Claim 16 and dependent Claims 17-19 that depend therefrom. Accordingly, Applicant believes that Claims 16-19 also patentably distinguish over Ramsey and Ball and requests that the Examiner formally withdraw the rejection of Claims 16-19 and issue a Notice of Allowance for all of the currently pending claims.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner's attention is drawn to the concurrently filed Applicant Initiated Interview Request Form, and is invited to contact Applicant's representative at the telephone number listed below to schedule an Interview.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4515-16168US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "David R. Schaffer", is written over a horizontal line.

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